

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

NATHANIEL FRAZIER,

Defendant-Appellant.

UNPUBLISHED

December 21, 2001

No. 224819

Wayne Circuit Court

LC No. 98-004177

Before: White, P.J., and Talbot and E.R. Post*, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from five-to-twenty-year sentences imposed for delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv), and possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv), following an adjudication that he violated the terms of his probation. We affirm.

Defendant's sole claim on appeal is that he is entitled to resentencing because the trial court failed to articulate the basis for the sentence imposed. We review the sentence imposed by the trial court for an abuse of discretion, which occurs if the sentence violates the principle of proportionality, which requires that a sentence imposed by the trial court be proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Jenkins*, 244 Mich App 1, 24; 624 NW2d 457 (2000).

The trial court must articulate on the record its reasons for imposing a particular sentence. *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987). It must state "which criteria were considered and what reasons support the court's decision regarding the length and nature of the punishment imposed." *People v Sandlin*, 179 Mich App 540, 542; 446 NW2d 301 (1989). "The purpose of the articulation requirement is to aid appellate review and avoid injustice on the basis of error at sentencing." *People v Terry*, 224 Mich App 447, 455; 569 NW2d 641 (1997). From the context of the plea and sentencing proceedings, it is clear that the basis for the court's sentence was an agreement that the minimum sentence would not exceed five years. That was sufficient to satisfy the articulation requirement. Cf. *People v Lawson*, 195 Mich App 76, 78; 489 NW2d 147 (1992). Given that defendant acknowledged the proportionality of the sentence by accepting the sentencing agreement, *People v Cobbs*, 443 Mich 276, 285; 505 NW2d 208 (1993), and that he does not claim the sentence was excessive or otherwise invalid, a remand for

* Circuit judge, sitting on the Court of Appeals by assignment.

a more specific statement by the trial court would not serve any purpose. *People v Brown*, 186 Mich App 350, 358-359; 463 NW2d 491 (1990).

The prosecutor's claim that the trial court erred in failing to impose a consecutive sentence pursuant to MCL 333.7401(3) is not properly before the Court. The failure to file a cross appeal precludes an appellee from raising an issue not appealed by the appellant. *Cheron, Inc v Don Jones, Inc*, 244 Mich App 212, 221; 625 NW2d 93 (2000).

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Edward R. Post